



IFES Quarterly Report: April 1 – June 30, 2005

East Timor: Development of National Electoral Framework

**Consortium for Elections and Political Process Strengthening / IFES
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RESULTS

IFES electoral support for the period 1 April to 30 June 2005 was concentrated on an evaluation of, and then assistance to, the current National Election Commission (CNE), recommendations on the structure of a future CNE, and the provision of support to the Technical Secretariat for Election Administration (STAE) during its conduct of the Suco election process.

Assessing and reporting on the effectiveness of the existing CNE, and supporting the CNE in its activities

The IFES CNE Election Management Advisor 2 (IFES CNE Advisor 2) worked with CNE members and CNE support staff over an eight week period, and produced a report on the operation and effectiveness of the CNE. This report outlines the working context of the CNE (taking into account the relative short working life left for this CNE), the CNE's access to financial support, the existence of CNE procedural documentation, and CNE training requirements. In addition, it includes recommendations addressing these issues including the provision of an Executive Secretary to the CNE. The key result of this evaluation was the acceptance and implementation of recommendations which will result in a more effective CNE.

The IFES CNE Advisor 2 also assisted the CNE in the completion of required reporting to USAID Small Grants Program. Reporting was two months overdue, and the report produced will now be used as a template for future CNE reporting to USAIDSGP.

Monitoring of the Suco election process with CNE commissioners

The IFES CNE Advisor 2 supported and accompanied CNE commissioners in the field during their monitoring of the Suco election process. Following this observers, the Advisor produced a report on the monitoring process. This report contains recommendations on the STAE election process, including logistics, staff training, the need for improved CNE publicity on its role in the election process, and CE/VE efforts. These recommendations, supported by the monitoring results of other agencies, will assist in the design of assistance programs to STAE for the forthcoming national election.

The results of CNE monitoring play a crucial role in the CNE Court report produced by CNE following each election round. Following observations (as outlined in the report on the effectiveness of the CNE) on CNE progress in relation to its Court reporting responsibility, IFES was able to arrange international legal assistance to the CNE to enable it to complete its required reports to Court using the results of its monitoring activity of the election process. This assistance will enable the CNE to complete outstanding reports due to the Court, and assist the body in better preparing to complete its future reports.

Reporting on the establishment of the next CNE prior to the 2007 national elections

The IFES CNE Advisor 2, using the experience of the current CNE, produced a report on the establishment of a future CNE (See Attached). This report contains recommendations on the structure, portfolios, and the STAE interface. These recommendations (together with training recommendations from the report on the current CNE), if implemented, would contribute to strengthening the future CNE into a more effective body which follows documented procedures and is able to fully report to the Court its recommendations on the election process.

Assistance to STAE, both ongoing and in the lead-up to round five of the Suco elections which includes Dili

From observation by the IFES CNE Advisor 2, and following discussions with STAE on its immediate IT priorities, IFES continued to provide material support to the STAE through a local IT consultant. In addition, IFES identified and contracted three local staff to archive completed voter registration forms. The result of these activities will enable STAE to maintain its computer network, to continue to access and update records in the voter registry database, and to easily access voter registration forms as required. During this period, IFES made arrangements for the return to Dili of the international IT consultant to support the STAE in its use of the voter database and voter registries.

MAJOR ACTIVITIES THIS QUARTER

Program Component I: Developing the Role of the CNE

Assessing and Reporting on the Effectiveness of the CNE

The IFES CNE Advisor 2, after working with the current CNE, produced a report on the effectiveness of this CNE. The report describes a somewhat disillusioned CNE approaching its final period of existence: only half of its members remain active and continue to regularly attend CNE meetings (usually there are insufficient members present during CNE weekly meetings to form a quorum). The report further portrays CNE activity as limited to election monitoring, with many CNE members constrained in their ability to assume CNE duties by the responsibilities of their own fulltime employment. The CNE as a body is largely unsure of its financial future in relation to both its activities during the final round of the elections and the issuance of its reports to the Court. Until now, little documentation has been created for procedures or even of CNE meeting minutes.

The report contained several recommendations, primary among them, that the IFES CNE Advisor 2 attempt to address the issue of financial resources available to the CNE. In order to provide some future assurance to commissioners that their work would be supported, the CNE Advisor 2 assisted the CNE in exploring additional financial support from both USAID and other donors. The outcome of these discussions were successful, and USAID Small Grants Program (USAIDSGP) investigated and determined that sufficient funding from the present grant would be available to cover the CNE final round activities and the required CNE Court reporting responsibilities. The IFES CNE Advisor 2 assisted the CNE in revising its financial estimates for these activities into a realistic document, which was provided to USAIDSGP.

The report also recommended the immediate employment of a CNE Executive Secretary to take responsibility for CNE meeting minutes, prepare press releases in relation to CNE findings as a result of CNE election monitoring activities, draft CNE correspondence (especially official communications with the STAE), maintain the register of election complaints, prepare the required reports to USAIDSGP (the CNE were well overdue with the report required by USAIDSGP), and other duties as directed by the CNE. The CNE Advisor 2 subsequently identified and recruited a CNE Executive Secretary to assist the CNE until the commission completes its mandate in approximately September 2005.

Finally, the report recommended that an international legal officer be dispatched to Dili to assist CNE in completing its required Court reporting responsibility. Although round four of the Suco elections took place during the visit of the Advisor, CNE had only completed the report to Court for round one of the election process. On July 10th, an international legal officer will arrive in Dili and assist the CNE in promptly completing the outstanding reports for rounds two and three. These reports will provide a template for the CNE to complete the required reports for rounds four and five. It is expected, however, that further legal assistance may be required by CNE in the preparation of its final report to Court in late August or early September.

Monitoring of the Suco Election Process with/by CNE Commissioners

The IFES CNE Advisor 2 conducted joint monitoring activities in the field with several CNE commissioners and reviewed additional reports and notes from other CNE members on their experiences monitoring Suco election rounds. On the basis of these observations and materials, the Advisor produced a report that highlighted areas in which STAE could strengthen its election management prior to the national election to be held in 2007.

The areas of improvement include the need for comprehensive polling staff training, provision of adequate logistical support, establishment of consistent procedures across all polling centers, and creation of a strategic plan and programming to address the issue of inadequate civic and voter education.

The report stresses that STAE, with the support of donors, needs to implement a structured polling staff training process which includes comprehensive train-the trainer sessions, training manuals detailing proper procedures (presenters manuals, participants handbooks, etc.), and staff training sessions incorporating role playing to prepare officials to assume their role and responsibilities.

The report also recommends that detailed procedures be developed and documented to ensure consistency across all polling centers by all polling staff. Furthermore, issues such as the supply and accountability of ballots and the role of police and government officials require particular emphasis. During the national elections, all areas of STAE will come under far greater scrutiny than during Suco elections, and STAE needs to prepare for this increased attention.

Finally, the report emphasizes the need for additional support to the CNE in fulfilling its mandated reporting requirements to the Court of Appeals. Following each election round, the CNE is required to report to Court its recommendations and to use its monitoring findings in preparing and submitting a formal report summarizing its conclusions. As is detailed in the preceding section, IFES arranged during this quarter to provide much-needed legal assistance in the preparation of these reports.

Reporting on the Establishment of the Next CNE prior to the National Elections in 2007

A future CNE to be established for the 2007 national elections would ideally be a stronger, better prepared, and more effective body than the present CNE. The IFES CNE Advisor 2 produced a report which outlines a proposed structure, portfolios, and STAE interface, and contains seven recommendations for constituting the new CNE. The report maintains that the size of the existing CNE is appropriate, but that the mix of commissioner appointments (currently by President, national Parliament, judiciary, and the Government) be changed so that the Government does not appoint any commissioners directly and that the President, national Parliament and the judiciary appoint one extra commissioner. In this way, the present thirteen member size of the CNE would be maintained, but the CNE, as the election oversight body, would not be perceived as being directly connected to the Government of the day. While it might still be argued that the Government could exert influence through other appointments to the CNE (e.g. through appointments from the judiciary), a new appointment process would improve the independence of the body and ensure that it is viewed as legitimate.

The report also maintains that reserve CNE members be appointed and that non-active CNE members be replaced. In this way, the CNE as a body would be assured of being able to draw upon an adequate number of members in order to share the workload of the body and ensure that the CNE can fulfill its responsibilities.

The report identified eight meaningful portfolios which should be established and allocated to CNE members immediately on establishment of the new CNE. Appropriate training should be provided to the commissioners on each of these allocated portfolios. Without designated portfolios, the CNE will not be effectively informed of issues across the whole election process or even of its own administration, and therefore its reporting capacity will be diminished.

Finally, the report highlights the importance of the CNE/STAE relationship – a relationship which been characterized by considerable tensions – and urges the establishment of mechanisms to promote cooperation and communication between the two bodies. This issue is also highlighted in the report by the IFES CNE Advisor 2 on the effectiveness of the existing CNE.

Program Component II: Developing Capacity to Manage the National Voter Registration & Database at STAE

Assistance to STAE in the run-up to continuing rounds of Suco elections

IFES continued its support of the STAE through the provision of a local IT consultant. The IFES local IT consultant allowed STAE to both continue to operate its computer network and to access and update the voter registry database. This local consultant is well received at STAE and STAE has requested that his services continue until at least the end of this year. IFES CNE Advisor 2 gave support to the IFES local IT consultant.

From observation and experience, and confirmation through discussions with STAE UNDP Technical Advisor, the IFES CNE Advisor 2 ascertained that there was an urgent need to properly archive the many thousands of completed voter registration application forms. These important forms were stacked in no particular order on the floor at STAE and were covered in a thick layer of dust. These forms, however, are very important as they are the original input documents for the database and must be referenced in order to make corrections to the personal data of individual voters within the voter registry database. This was nearly impossible because of the way the forms were stored. The IFES CNE Advisor 2 recommended that IFES employ three locals to properly sort and archive these documents. These staff commenced work in June for a period of one month, and will work under the supervision of the IFES local IT consultant. Archiving is ongoing with priority being given to the two districts (including Dili) which will be included in round five of the Suco election process.

At the request of the STAE Director, the IFES CNE Advisor 2 recommended that IFES arrange the return of the IFES international IT advisor to Dili to consult and advise STAE in its preparations for the final round of elections. The STAE Director advised that the State Administration Minister required additional information in regard to an investigation into the voter registry database and complaints concerning voters who did not appear on the voter registries. The IFES IT advisor was scheduled to arrive in Dili on July 1st and will investigate this claim and report to the STAE Director and the State Administration Minister on this matter.

Program Component III: National Voter Education Strategy and Communications in Support of the CNE-STAE

Strengthening Civic Education Campaigns

Following the visit of the Senior Civic Education Specialist (CES), Eduardo Bogado, the CNE Advisor was informed by the STAE Director that STAE was uninterested in pursuing the voter education initiatives identified.

The Civic Education report which resulted from the Senior CE Specialist's visit was prepared during this quarter, and will be presented to STAE Director next quarter. It includes recommendations in the near and medium term on how the STAE can improve voter and civic education.

ANTICIPATED ACTIVITIES NEXT QUARTER

- IFES CNE Advisor 2 will complete his evaluation and support of CNE and the STAE.
- IFES local IT consultant will continue to support both the IT network and the voter registration database within STAE.
- IFES international IT advisor will be re-deployed to Dili to report on the voter registration database.
- IFES international legal advisor will be deployed to Dili to assist CNE prepare its reports to the Court for Suco elections rounds two and three.
- IFES will continue to employ a local Executive Secretary for the CNE to assist the CNE in the administration of its responsibilities.
- IFES will continue to employ three local staff within STAE to sort and archive voter registration application forms.
- The Civic Education (See Attached) and joint IT Report will be presented to STAE.

RECOMMENDATIONS ON THE ESTABLISHMENT OF A FUTURE CNE

This report outlines the proposed structure, portfolios, and STAE interface for the next CNE. It is based on the experience and observation of the CNE established under the Law for the Election of Chief of Suco and Suco Councils.

The CNE Structure

The current CNE has thirteen members – the same number of members as there are districts. The existing members of the CNE maintain that this one-to-one relationship between members and districts should be retained. The CNE membership is appointed from various sources--the President (3), National Parliament (4), the Government (3), and the Judiciary (3). The President, National Parliament and the Government must nominate at least one female thus ensuring female representation on the CNE. Currently, there are seven females on the CNE, ensuring a good gender balance.

Within the current CNE, however, there are only about seven active members. Indeed the President of the CNE herself is not presently engaged in CNE activities. An argument could be made that the size of the CNE could be reduced to the number of currently active CNE members. Given the factors inhibiting the participation of current CNE commissioners, however, this would not be a constructive proposal. The majority of CNE members had full time positions when they were appointed to the Commission and have continued in their positions during their membership of the CNE. CNE members are not paid for doing CNE activities. As a result, their fulltime paid positions, of course, take a priority. Indeed, CNE meetings often struggle to achieve the quorum of seven members. Reducing the number of commissioners from thirteen to seven would not necessarily improve this situation. A final argument against reducing the number of commissioners on the CNE relates to the differing situations between a national election and the Suco election process. The Suco election process is a number of rounds of election; that is, each round of several districts is held on separate dates and therefore a smaller number of commissioners can be used to monitor each round. For a national election, it is most probable that the whole country (i.e., all thirteen districts) will vote in a single process and therefore having thirteen commissioners available would make national monitoring possible and more effective. To encourage commissioners to attend CNE meetings, consideration should be given to the payment of a fee if commissioners make themselves available for CNE meetings (**Recommendation 1**). The fee could be paid progressively for each meeting attended.

Within the CNE a position of Executive Secretary should be established to support CNE members in achieving its mandate. This support is especially for those members with portfolio responsibilities. The responsibilities of the Executive Secretary in relation to portfolios are more fully explained in the section of this report entitled Portfolios. Following IFES approval for funding, recruitment action has begun to fill this position for the existing CNE for a period of three months. This period will expire at approximately the same time as the current CNE will cease--that is after the presentation of the CNE final report to the Court. It is essential that a similar position be created for the next CNE whenever it is established (**Recommendation 2**).

Having stated above that the CNE should retain its current size, consideration should however be given to changing the current mix of members. The CNE as the oversight body should be independent of the government of the day. The CNE should not be influenced by government and should feel free to report on all issues. An example of an issue which may be contentious to the Government are the ongoing reports from observers of intervention of government officials, and even ministers, in the election process. The CNE should feel free to investigate such reports. However with three members of the CNE being appointed by the Government, other CNE members may feel intimidated in pursuing and reporting on such an issue. Accordingly the CNE may benefit by being free of Government appointees. The three members currently appointed by the Government should instead be appointed by the President, National Parliament and the Judiciary each appointing one extra member (**Recommendation 3**). Even with this recommendation in place, it would be possible for the Government to exercise influence--but not as directly as it can when it directly appoints three members to the CNE.

Finally, a procedure should be put in place to automatically replace CNE members who are non-active without sufficient reason (eg illness, family emergency) within the CNE for a set period, eg one month (**Recommendation 4**). This could be achieved by reserve members being appointed at the same time as the original appointments--but only being activated when a sitting CNE member does not continue to remain active on CNE activities. This replacement mechanism is separate to the replacement of members for other reasons eg candidature, death etc.

CNE Portfolios

In order for a body such as the CNE to operate effectively, it needs to receive reliable and accurate information in order to make informed decisions and take appropriate action. One of the best ways of receiving this level of information is for members to be allocated responsibility for comprehensively reporting to the body on specific subjects--in other words to allocate portfolios to members. The subjects of these portfolios should cover the whole spectrum of areas of interest to the body. At each meeting members with a portfolio should give both a short activity report for their allocated subject and also report on updates to previous issues of contention. These reports should be listed on the agenda for each meeting. At each meeting those members allocated portfolios should be able to add informed thought/facts to any discussion in relation to issues within their portfolio.

The current CNE does have several portfolios but these are both insufficient and of little value. No reports on portfolios are presented at CNE meetings. Currently the CNE has the following portfolios:

- A commissioner appointed to take minutes,
- A commissioner appointed to recruit CNE district focal points,
- A commissioner appointed to prepare correspondence,
- A commissioner appointed to prepare reports. Unfortunately reports to Court for the last two rounds have not yet been prepared and the report to USAID due 25 April 2005 has not been prepared,
- A commissioner to oversight finance. Unfortunately budget preparation to date has not been realistic,
- A commissioner to arrange press meetings.

- On top of the poor choice for portfolios several commissioners who were actually allocated one of the above minor duties abrogated their responsibility to Commissioner Faustino, whose original allocated responsibility was minute taking at CNE meetings.

A more comprehensive list of portfolios will allow the CNE to develop better expertise across their whole mandate as each member responsible for a portfolio would continue to collect information on that subject in order to present an update report at each CNE meeting. More informed discussion would take place. It would be necessary for members responsible for portfolios to be more pro-active in seeking information on the subject of his/her portfolio and visit STAE not only to talk to the Director but also to talk with individual staff members or consultants. As the oversight body CNE has the right to do this. Finally those portfolios which have a larger workload than others could have more than one commissioner responsible for that portfolio with the relevant commissioners themselves agreeing on a division of labor.

Taking into considerations the important areas of CNE responsibilities, emphasis should be placed on establishing the following portfolios in a future CNE (**Recommendation 5**):

Finance

The commissioner responsible for this portfolio oversees the work of the local CNE finance officer (daily supervision of local staff belongs to the Executive Secretary), ensures realistic CNE budgets are produced as required (eg for donors), ensures accurate records of actual CNE expenditure (together with receipts) for approved purchases are kept, ensures that financial queries from donors are answered accurately and promptly, ensures that local CNE staff are paid on time, and ensures per diems for commissioners are only paid for actual travel outside of Dili .

Administration

The commissioner responsible for this portfolio oversees the local CNE admin officer, drivers and cleaner (daily supervision belongs to the Executive Secretary), ensures that information requested from donors and progress reports required by donors from the CNE are delivered promptly, ensures that CNE district focal points are recruited as required, ensures vehicles, office and equipment are properly maintained by local CNE staff and ensures that a register of assets is also maintained. Importantly the commissioner, with the assistance of the Executive Secretary, ensures that other commissioners have access to the CNE Codes of Practise and documents such as monitoring procedures as required. This commissioner (together with the Executive Secretary), through the CNE President, is the focal point for training programs for commissioners.

External Relations

The commissioner responsible for this portfolio maintains an on-going relationship with media outlets and others (eg NGOs) in order to publicly report the activities and results (eg monitoring) of the CNE, and also importantly promotes through the media the existence, role and responsibilities of the CNE so that the voters of East Timor can both have confidence in the electoral system and have the knowledge to be able to use the system in order to lodge complaints concerning the process if required.

STAE Relationship

The commissioner responsible for this portfolio maintains constant contact with the STAE Director, or in his absence with the STAE Deputy Director. This contact relates to forthcoming CNE meetings which the STAE Director must attend, correspondence from CNE to STAE in relation to CNE technical concerns as a result of CNE monitoring activities (these CNE concerns may require technical rectification action from STAE), enquiries from CNE as follow up to complaints lodged with CNE concerning the registration or election processes, and follow up of required STAE reports to CNE or lack of reports and general enquiries to STAE on any other issue. The CNE Executive Secretary would assist in day to day running on these activities but he/she would continually report to the responsible commissioner for any required direct CNE action.

Complaints Handling

The commissioner responsible for this portfolio oversees the processing of all complaints to CNE including the receipt and recording of receipt of a complaint in a Complaints Register, ensures that each complaint to the CNE is fully investigated and a report is written by the CNE detailing the investigation and the investigation result, and that the result is communicated back both to whomever lodged the complaint and to STAE for possible action. The Executive Secretary would assist in the day to day activities as required but would report to the responsible commissioner for any required direct CNE action. It is most likely that a far larger number of complaints will be received by the CNE during a parliamentary national election than is being received during the suco election process.

Operations/Registration

The commissioner responsible for this portfolio oversees and becomes familiar with both the STAE registration field process and the consequential STAE data processing activity. The Commissioner is required to understand the STAE data input process and the complications for accurate data processing associated with inaccurate brigade field work, poor or non existent village geographic location details etc so that he/she can add informed information to any CNE discussion on the voters register. The commissioner should be able to discuss freely any question with the STAE IT staff/consultants as required.

Operations/Elections

The commissioner responsible for this portfolio oversees and becomes familiar with the STAE election calendar, election procedures (including nominations, polling and vote counting), polling staff training program and supply procurement so that he/she can add informed information to any CNE discussion on the election. The commissioner should be able to discuss freely any question with STAE operational staff or the on-site STAE election technical advisor (currently UNDP).

Civic and Voter Education

The commissioner responsible for this portfolio oversees the STAE CE/VE programs and becomes familiar with CE/VE efforts by both local NGOs and funding organisations such as UNDP and USAID so that he/she can add informed information to any CNE discussion on STAE approved civic and voter education programs-- or lack thereof.

Finally the President of the incoming CNE will need to appoint a small team from the remaining commissioners to prepare the report required by the Court following the election process. As there will be limited experience within the new CNE in preparation of such a detailed report an international legal election advisor (IFES) should assist the CNE in this most important undertaking (**Recommendation 6**).

For the above structure of portfolios to succeed it will be necessary for an international advisor (IFES) to be on site and working with the new commissioners from day one of their appointment (**Recommendation 7**). The advisor will need to train each commissioner in his/her responsibilities and develop their relationships with the new Executive Secretary, relevant STAE staff and the CNE local finance and admin officers. The new CNE will also require the intensive election training as already outlined in my previous report on the CNE.

CNE interface with STAE.

An open relationship between the CNE and STAE is critical if the present arrangements in East Timor are to continue, that is, a government agency responsible for the conduct of elections and registration being overseen by an independent body. At present, this relationship is, at best, strained. It is hoped that with the appointment of a new CNE for the national elections a new and better relationship can be established. On the appointment of the new CNE, meetings must be held between the CNE and STAE Director so that both parties can understand the relationship. CNE will require access to STAE staff to gain information relevant to their mandate. Under the existing Suco election law the STAE Director is supposed to attend meetings of the CNE as a non-voting member, and report to CNE during the election process. These requirements may be mirrored in the new national parliament election law which is still to be drafted and approved. Until this law is drafted and approved, reporting arrangements between CNE and STAE cannot be confirmed. In any case, Recommendation 5 above details the appointment of a commissioner whose sole responsibility under his or her portfolio would be to manage this important relationship between the incoming CNE and STAE.